IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

WP(C).No. 28041 of 2007(L)

PETITIONER:

T.G.SARALA,
LAKSHMI BHAVANAM, KULASEKHARA MANGALAM,
VAIKOM, KOTTAYAM DISTRICT.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:
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1. DISTRICT COLLECTOR,
KOTTAYAM.

2. CIRCLE INSPECTOR OF POLICE,
VAIKOM POLICE STATION, VAIKOM.

3. REVENUE DIVISIONAL OFFICER,
KOTTAYAM.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 28041 OF 2007 L
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Dated this the 22nd October, 2007

J U D G M E N T

This writ petition is filed challenging Ext. P2 order passed by the 1st respondent District Collector in exercise of the powers under Rule 27 of the Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002. By this order, it has been held that the petitioner was engaged in the unauthorised transportation of river sand and on that basis, the value of the vehicle has been fixed at Rs.2 lakhs and a fine of Rs.25,000/- has been imposed on the petitioner. It is this order that is under challenge.

2. As far as the competence of the District Collector to order confiscation of the vehicle is concerned, that is now decided against the petitioner, by the Division Bench of this Court, in W.P.(C) No. 9958 of 2007. The other contention that is raised by

the learned counsel for the petitioner is that what was transported in the truck was not river sand, but only ordinary sand. For this purpose, the learned counsel for the petitioner makes reference to Ext. P3, the pass issued under the Kerala Miner Mineral Concession Rules. In so far as the question whether it is river sand or not is concerned, the 1st respondent has entered a finding to that effect in Ext. P2. It is stated in Ext. P2 that the said finding is on the basis of what transpired during the course of the hearing and on the basis of what is stated in the mahazar. In the mahazar prepared at the time of seizure of the vehicle, there is a positive conclusion that the sand in question was river sand. Not only that the District Collector was also satisfied from what transpired at the time of hearing that the sand transported was river sand. Instead of this I am not in a position to accept the case to the contrary canvassed by the petitioner referring to Ext. P3. In so far as the objection now raised that the value fixed is not correct is concerned, I am not in a position to take a different view. All that I can say is that the value

recorded is in terms of the provisions contained in the rules and hence the exercise of power in that behalf cannot be vitiated for any reason.

The writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-